

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION**

This document relates to:

All Cases

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

PEC’S STRIKES OF THE PBM DEFENDANTS’ BELLWETHER CASES

Pursuant to the Court’s Orders dated August 31, 2023 (Dkt. No. 5166) and October 4, 2023 (non-document order), the Plaintiff Executive Committee (PEC) submits the following strikes of the Prescription Benefit Manager (PBM) defendants’ bellwether selections.

- Third Circuit: *City of Paterson v. Purdue Pharma, L.P., et al.*, No. 1:18-op-45371-DAP
- Fourth Circuit: *Goochland County, Virginia v. Mallinckrodt, PLC, et al.*, No. 1:20-op-45175-DAP

Recognizing that the strike process could result in two bellwethers being selected from Missouri which would be inconsistent with the Court’s intent to identify bellwether cases from four different circuits, the PEC initiated a meet and confer with Defendants to discuss approaches to avoid that scenario. The PEC proposed the following solutions:

1. Plaintiffs’ and Defendants’ Missouri bellwether selections would cancel each other out, leaving three bellwether candidates on each side, against which each side would exercise only one strike; or
2. Defendants’ Missouri selection would be designated instead of the PEC’s Missouri Bellwether Selection, and the Defendants would then exercise only one strike against the PEC’s remaining three bellwethers.

Defendants declined to agree to the PEC’s suggestions, offer any alternatives, or counter the PEC’s proposals. The PEC therefore respectfully requests that, in the event that two Missouri

bellwethers survive the parties' strikes, the Court adopt the proposal that would be self-executing, without a further round of bellwether submissions or strikes: We propose the Court choose Defendants' Missouri bellwether and then designate either of the PEC's remaining non-Missouri bellwethers to replace its Missouri bellwether.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court's CM/ECF system.

/s/ Peter Weinberger

Peter Weinberger